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VIOLET BLUE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

## VIOLET BLUE, an Individual,

## Plaintiff and Counter-defendant,

V.

ADA MAE JOHNSON a/k/a ADA WOFFINDEN, an individual d/b/a VIOLET BLUE a/k/a VIOLET a/k/a VIOLET LUST; ASSASSIN PICTURES INC., a California Corporation; ASSASSINCASH.COM; BILL T. FOX, an individual, a/k/a BILL FOX; FIVE STAR VIDEO L.C., an Arizona Limited Liability Company a/k/a Five Star Video Distributors LLC d/b/a Five Star Fulfillment; and DOES 1-10

#### **Defendants and Counter-claimants.**

Case No. C 07-5370 SI

## **VIOLET BLUE'S ANSWER TO DEFENDANT WOFFINDEN'S COUNTER CLAIMS**

Plaintiff and Counter-defendant Violet Blue (“Blue”), through the undersigned counsel, hereby answers the Counterclaims of defendant and counterclaim plaintiff Ada Mae Johnson a/k/a Ada Woffinden, d/b/a Violet Blue a/k/a Violet a/k/a Violet Lust (“Woffinden”) as follows:

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## PARTIES

1        1. Blue is without knowledge or information sufficient to form a belief as to  
2 the truth of the averments in paragraph 1 of the Counterclaims, whereby Blue denies each  
3 and every of the said allegations.

4        2. Blue denies that her name is, or ever was, Wendy Sullivan Blue. Blue  
5 admits that she is an individual residing in the state of California.

6        3. Blue admits that she is the owner of US Trademark Registration No.  
7 3,391,010 (U.S. Trademark Application Serial No. 77/121,570) for "Downloadable  
8 electronic publications in the nature of individual texts of blog posts, photographs,  
9 electronic books, audio books, news columns, and newsletters, in the fields of health,  
10 robotics, machine art, sexual pleasures, pornography, technology and new media  
11 services; Downloadable audio files, MP3 recordings, online discussion boards, web casts,  
12 and podcasts featuring music, audio books and news broadcasts, all in the fields of,  
13 robotics, machine art, sexual pleasures, pornography, technology and new media  
14 services," in Class 009, and "Providing on-line, publications in the nature of individual  
15 texts of blog posts, photographic images, electronic books, audio books, news columns,  
16 and newsletters, in the fields of health, robotics, machine art, sexual pleasures,  
17 pornography, technology and new media services; On-line journals, namely, blogs  
18 featuring information, audio visual material and photographs in the fields of health,  
19 robotics, machine art, sexual pleasures, pornography, technology and new media  
20 services; Electronic publishing services, namely, publication of text, audio, video,  
21 graphic and interactive works of others in the nature of text blog posts, still photographic  
22 images, electronic books, audio books, news columns, and newsletters, featuring  
23 information in the fields of health, robotics, machine art, sexual pleasures, pornography,  
24 technology and new media services," in Class 041. Except as so admitted, Blue denies  
25 the averments contained within paragraph 3 of the Counterclaims.

26        4. Blue denies the averments contained within paragraph 4 of the  
27 Counterclaims.

5. Blue denies the averments contained within paragraph 5 of the Counterclaims.

## **JURISDICTION AND VENUE**

6. Blue admits that this Court has subject matter jurisdiction over the first, second, and third counterclaims pursuant to 28 U.S.C. §§ 1331 and 1338. Blue denies that this court has subject matter jurisdiction over the fifth counterclaim pursuant to 28 U.S.C. §§ 1331 and 1338.

7. Blue admits that this Court has personal jurisdiction over Blue. Blue denies that personal jurisdiction is also proper in the Western District of Washington. Blue admits that her works are offered through Amazon.com. Blue admits that Amazon.com is located in the Western District of Washington. Except as so admitted, Blue denies the averments contained within paragraph 7 of the Counterclaims.

## **FIRST COUNTERCLAIM FOR DECLARATORY RELIEF**

8. Paragraph 8 contains incorporations by reference, to which no response is required. To the extent that a response is deemed necessary, Blue admits that Woffinden has incorporated the above paragraphs by reference.

9. Blue denies the averments contained within paragraph 9 of the Counterclaims.

## **SECOND COUNTERCLAIM FOR DECLATORY RELIEF**

10. Paragraph 10 contains incorporations by reference, to which no response is required. To the extent that a response is deemed necessary, Blue admits that Woffinden has incorporated the above paragraphs by reference

11. Blue denies the averments contained within paragraph 11 of the Counterclaims.

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1           **THIRD COUNTERCLAIM FOR CANCELLATION OF U.S. TRADEMARK AND**  
2           **SERVICE MARK REGISTRATION APPLICATION SERIAL NO. 77/121,570.**

3           12. Paragraph 12 contains incorporations by reference, to which no response is  
4 required. To the extent that a response is deemed necessary, Blue admits that Woffinden  
5 has incorporated the above paragraphs by reference.

6           13. Blue admits that she is the owner of U.S. Trademark and Service Mark  
7 Application Serial No. 77/121,570, which has matured to Registration No. 3,391,010.  
8 Except as so admitted, Blue denies the averments contained in paragraph 13 of the  
9 Counterclaims.

10           **FOURTH COUNTERCLAIM [DISMISSED]**

11           14. Paragraph 14 contains reference to claims which have been dismissed by  
12 the Court (See Docket No. 73.).

13           15. Paragraph 15 contains claims which have been dismissed by the Court (See  
14 Docket No. 73).

15           **FIFTH COUNTERCLAIM FOR DAMAGES FROM OUTRAGE**

16           16. Paragraph 16 contains incorporations by reference, to which no response is  
17 required. To the extent that a response is deemed necessary, Blue admits that Woffinden  
18 has incorporated the above paragraphs by reference.

19           17. Blue admits making postings on the Internet that mention Woffinden.  
20 Except as so admitted, Blue denies the averments contained in paragraph 17 of the  
21 Counterclaims.

22           18. Blue denies the averments contained within paragraph 18 of the  
23 Counterclaims.

24           19. Blue denies the averments contained within paragraph 19 of the  
25 Counterclaims.

26           20. Blue admits that she her internet writings reach a broad audience  
27 numbering in the millions, including an audience from the greater San Francisco,  
28

1 California area. Except as so admitted, Blue denies the averments contained in paragraph  
 2 20 of the Counterclaims

3 21. Blue admits the averments contained within paragraph 21 of the  
 4 Counterclaims.

5 22. Blue denies the averments contained within paragraph 22 of the  
 6 Counterclaims.

7 23. Blue denies the averments contained in paragraph 23 of the Counterclaim.

8 24. Blue denies the averments contained within paragraph 24 of the  
 9 Counterclaim.

#### **AFFIRMATIVE DEFENSES**

11 As affirmative defenses, Defendant alleges and states as follows:

12 1. Woffinden has failed to state a claim upon which relief can be  
 13 granted;

14 2. Woffinden has suffered no damages;

15 3. Woffinden has failed to mitigate her damages, if any;

16 4. Woffinden has suffered no injury and there is no likelihood of  
 17 injury;

18 5. Woffinden has suffered no harm and/or no irreparable harm;

19 6. Woffinden's Counterclaims are barred as unconscionable;

20 7. Woffinden's Counterclaims have been waived;

21 8. Woffinden's fifth counterclaim is barred by the statute of limitations;

22 9. Woffinden cannot prevail on her fifth counterclaim of outrage  
 23 because the claim is barred by the First Amendment of the US Constitution.

24 10. Woffinden cannot prevail on her fifth counterclaim of outrage  
 25 because such claim is barred by the Constitution of the State of California.

26 11. Blue hereby reserves the right to add to, supplement, modify,  
 27 change, or amend any and all of her affirmative defenses as new facts become known  
 28 through further discovery and investigation.

## **PRAYER FOR RELEASE**

WHEREFORE, Blue prays:

1. That Woffinden take nothing by reason of her counterclaims, that judgment be rendered in favor of Blue;

2. That Blue be awarded her costs and fees of suit incurred in defense of these counterclaims;

3. For such other relief as the court deems proper.

Dated: April 21, 2008

VOGELE & ASSOCIATES

By: \_\_\_\_\_ /S/  
Colette Vogeles  
Attorneys for Plaintiff VIOLET BLUE